

ASSEMBLY BILL

No. 2557

Introduced by Assembly Member Leach

February 21, 2002

An act to amend Section 17140 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2557, as introduced, Leach. Income taxes: Scholarshare trust distributions.

The Personal Income Tax Law provides that gross income does not include any contribution to a Scholarshare trust, and provides for the specified taxation of any distribution from the trust.

This bill would provide that gross income also does not include any distribution from a Scholarshare trust.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17140 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 17140. (a) For purposes of this section, the following terms
- 4 have the following meanings as provided in the Golden State
- 5 Scholarshare Trust Act (Article 19 (commencing with Section
- 6 69980) of Chapter 2 of Part 42 of the Education Code):
- 7 (1) "Beneficiary" has the meaning set forth in subdivision (c)
- 8 of Section 69980 of the Education Code.

(2) “Benefit” has the meaning set forth in subdivision (d) of Section 69980 of the Education Code.

(3) “Participant” has the meaning set forth in subdivision (h) of Section 69980 of the Education Code.

(4) “Participation agreement” has the meaning set forth in subdivision (i) of Section 69980 of the Education Code.

(5) “Scholarshare trust” has the meaning set forth in subdivision (f) of Section 69980 of the Education Code.

(b) Except as otherwise provided in subdivision (c), gross income of a beneficiary or a participant does not include any of the following:

(1) Any distribution or earnings under a Scholarshare trust participation agreement, as provided in Article 19 (commencing with Section 69980) of Chapter 2 of Part 42 of the Education Code.

(2) Any contribution to the Scholarshare trust on behalf of a beneficiary ~~shall, and any distribution under a Scholarshare trust participation agreement to a beneficiary, is~~ not be includable as gross income of that beneficiary.

~~(c) (1) Any distribution under a Scholarshare trust participation agreement shall be includable in the gross income of the distributee in the manner as provided under Section 72 of the Internal Revenue Code, as modified by Section 17085, to the extent not excluded from gross income under this part. For purposes of applying Section 72 of the Internal Revenue Code, the following apply:~~

~~(A) All Scholarshare trust accounts of which an individual is a beneficiary shall be treated as one account, except as otherwise provided.~~

~~(B) All distributions during a taxable year shall be treated as one distribution.~~

~~(C) The value of the participation agreement, income on the participation agreement, and investment in the participation agreement shall be computed as of the close of the calendar year in which the taxable year begins.~~

(2) A contribution by a for-profit or nonprofit entity, or by a state or local government agency, for the benefit of an owner or employee of that entity or a beneficiary whom the owner or employee has the power to designate, including the owner or employee’s minor children, shall be included in the gross income of that owner or employee in the year the contribution is made.

1 ~~(3) For purposes of this subdivision section, “distribution”~~
2 includes any benefit furnished to a beneficiary under a
3 participation agreement, as provided in Article 19 (commencing
4 with Section 69980) of Chapter 2 of Part 42 of the Education Code.

5 ~~(4) (A) Paragraph (1) shall not apply to that portion of any~~
6 ~~distribution that, within 60 days of distribution, is transferred to~~
7 ~~the credit of another beneficiary under the Scholarshare trust who~~
8 ~~is a “member of the family,” as that term is used in Section~~
9 ~~529(e)(2) of the Internal Revenue Code, as amended by Section~~
10 ~~211 of the Taxpayer Relief Act of 1997 (P.L. 105-34), of the former~~
11 ~~beneficiary of that Scholarshare trust.~~

12 ~~(B) Any change in the beneficiary of an interest in the~~
13 ~~Scholarshare trust shall not be treated as a distribution for purposes~~
14 ~~of paragraph (1) if the new beneficiary is a “member of the~~
15 ~~family,” as that term is used in Section 529(e)(2) of the Internal~~
16 ~~Revenue Code, as amended by Section 211 of the Taxpayer Relief~~
17 ~~Act of 1997 (P.L. 105-34), of the former beneficiary of that~~
18 ~~Scholarshare trust.~~

19 (d) For purposes of determining adjusted gross income,
20 Section 62(a)(9) of the Internal Revenue Code ~~shall~~ *does* not apply
21 to any amount forfeited upon distribution of an account created
22 pursuant to a participation agreement.

23 (e) The amendments made to the Internal Revenue Code by
24 Section 211 of the Taxpayer Relief Act of 1997 (P.L. 105-34) shall
25 apply to taxable years beginning on or after January 1, 1998.

26 SEC. 2. This act provides for a tax levy within the meaning of
27 Article IV of the Constitution and shall go into immediate effect.